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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,704	06/07/2001	James S. Mrozinski	55870US002	9401

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EXAMINER

TRAN, SUSAN T

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 03/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/876,704

Applicant(s)

MROZINSKI ET AL.

Examiner

Susan Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 12-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 45-61 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Receipt is acknowledged of applicant's Supplemental Information Disclosure Statement filed 09/26/02, Change of Address filed 01/02/03, and Amendment A filed 01/06/03.

#### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 09/26/02 was filed after the mailing date of the Office Action on 09/24/02. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-10, 13-24, 25, 27-33, 37, 38, and 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. WO 99/29220.

Kondo teaches oil absorbing sheet comprising porous plastic film sheet, e.g., polypropylene, polyethylene, polybutylene, ethylene-propylene block copolymer, or poly-4-methylpentene; and coating, including about 20-60% fillers, e.g., mineral oils, and other additives (pages 4, and 6-7). The porous film sheet has interstitial volume in

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the range of 0.0001-0.005 cm<sup>3</sup>, void content in the range of 5-50%, the thickness in the range of 5-200µm, and oil absorption per unit of up to 3.78 mg/cm<sup>2</sup> (pages 5, 8, and 14-22). Other additives in the coating include surface- active agent and hydrophilic polymer, e.g., polyvinyl alcohol, and polyethylene glycol; and wherein the coating can be on a single or both surfaces of the film (pages 9-11). Kondo does not specifically teach the transparency of less than 65 percent. However, Kondo teaches excellent transparency, notable transparency enabling easy confirmation of oil absorption (page 8 and examples). Accordingly, absent showing evidence on the contrary, the transparency taught by Kondo is at least the same as the claimed transparency. Therefore, it would have been *prima facie* obvious for one of ordinary skill in the art to, by routine experimentation obtain the claimed invention because Kondo recognizes the same results desired by the applicant, e.g., excellent absorption of the skin oil, notable transparency, suitable to absorb large amount of sweat and skin oil on the face (page 1).

Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al., and Sugiyama et al. US 4,643,939.

Kondo is silent as to the teaching of oil absorbing sheet made of paper material.

Sugiyama teaches oil-absorbing tissue made of plant fiber, or mixture of plant fiber and synthetic resin fiber (column 2, lines 30-38). The sheet is coated with additives, such as salicylic acid (column 2, lines 39-68). Thus, it would have been obvious for one of ordinary skill in the art to modify Kondo's oil-absorbing sheet with the

plant fiber in view of Sugiyama with the expectation of at least similar result, because the references teach the advantageous results in the use of oil-absorbing sheet. The expected result would be oil-absorbing sheet having excellent absorption of the skin oil, and notable transparency to enable easy confirmation of oil absorption and toughness.

Claims 12 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al.

Kondo is silent as to the teaching of polyolefin microfiber or salicylic acid. However, it is the position of the examiner that polyolefin is of the same polymer group as polypropylene, and therefore, it would have been obvious for one of ordinary skill in the art to, by routine experimentation select a suitable thermoplastic film and a suitable organic acid with the expectation of at least similar result, because Kondo teaches thermoplastic film material including polypropylene microfiber; filler, such as organic and inorganic acid.

Claims 34-36, 39, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al.

Kondo is silent as to the teaching of the average pore size and the "Hand" of the sheet. However, absent showing evidence on the contrary, it is the position of the examiner that the oil absorbing sheet taught by Kondo would have at least similar pore size and "Hand" weight as the claimed pore size, because, Kondo uses the same thermoplastic film having the same physical properties, e.g., void volume, interstitial volume, and thickness.

***Claims Allowable***

Claims 45-61 are allowed.

***Response to Arguments***

Applicant's arguments filed 01/06/03 have been fully considered but they are not persuasive.

Applicant argues that Kondo does not indicate that the hydrophilic polymers can be used to preferentially deliver active or skin modifying agent subsequent to use of the opposite side of the porous substrate as an oil absorbing wipe. In additional, Kondo does not teach that the hydrophilic polymers can also be used to "deliver" surface active or skin modifying agents to the user's skin. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., deliver active or skin modifying agent subsequent to use of the opposite side of the porous substrate as an oil absorbing wipe; or polymers that can be used to deliver surface active or skin modifying agents to the user's skin) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, the rejected claims are product claims, and therefore, determination of patentability is

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based on the product itself. In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985) (citations omitted).

Applicant argues that Kondo does not teach the use of a specific surface coating on one face of an oil absorbing porous. Contrary to the applicant's argument, applicant claims recites "coating on *at least a portion of at least one face*". Accordingly, such language (*at least one face*) allows coating on more than one face.

### ***Pertinent Arts***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hotchkiss et al., Girardot, and Page are cited as being of interest for the teachings of oil absorbing substrate containing active agent, moisturizing agent, or medicament.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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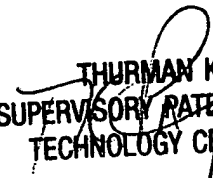
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Tran whose telephone number is (703) 306-5816. The examiner can normally be reached on Monday through Thursday from 6:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (703) 308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

  
THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600